THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.24784 of 2006

1st December 2006

Between:

1. The Commissioner, Panchayat Raj & Rural Employment, A.P., Hyderabad.

And two others.

…PETITIONERS

AND

S.Penchalaiah, Working as Superintendent & MPDO (FAC), Kamarole Mandal Parishad, Prakasam District.
(Now under the orders of Suspension).

…RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.24784 of 2006

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Heard both the sides and at their request, the Writ Petition itself is taken up for disposal at the admission stage.

The present Writ Petition is filed aggrieved by the order of the Andhra Pradesh Administrative Tribunal, Hyderabad ('the Tribunal' for brevity), in O.A.No.2243 of 2006 dated 20.04.2004, whereby the O.A. was disposed of directing the petitioners herein to conclude the disciplinary proceedings within a period of three months from the date of receipt of a copy of the order and if, for any reason, the disciplinary proceedings are not concluded within a period of three months as stated above, the petitioners herein were required to reinstate the respondent-applicant into service immediately after expiry of the stipulated period of three months without prejudice to the pending disciplinary proceedings. The said order, passed by the Tribunal on 20.04.2004, was on the basis of the representation made on behalf of

the petitioners herein seeking three months time to conclude the disciplinary proceedings. It was in such circumstances that the Tribunal had granted three months time to conclude the enquiry.

Sri N.Krishna Murthy, learned counsel for the respondent-applicant, would submit that while common charges were levelled against three employees, the petitioners herein had chosen to reinstate one of the employees into service. However, in the case of the respondent-applicant herein, the matter was being needlessly dragged on. We would, ordinarily, not have interfered with the order of the Tribunal as the order is based on a concession made by the petitioners herein. We cannot, however, lose sight of the fact that the charges levelled against the respondent-applicant are grave and serious and relate to misappropriation of funds. In such circumstances it would be inappropriate for this Court not to grant further time to the petitioners herein to conclude the disciplinary enquiry.

Sri N.Krishnamurthy, learned counsel for the respondent-applicant, would place reliance on an order of the Division Bench of this Court, in W.P.No.21241 of 2004 dated 19.11.2004, wherein the Writ Petition was disposed of with a direction that the authority

concerned shall complete the disciplinary enquiry and pass appropriate orders within a period of three months from the date of receipt of a copy of the order. The Division Bench, however, made it clear that if the disciplinary enquiry was not completed within the time stipulated, the delinquent-employee shall be reinstated into service pending further disciplinary enquiry. This order was relied upon by the Tribunal in O.A.No.5166 of 2005 in respect of a Typist, who was reinstated into service. Common charges are said to have been levelled against several employees including the said Typist and the respondent-applicant herein. The order of this Court, in W.P.No.21241 of 2004 dated 19.11.2004, granting three months time to complete the enquiry cannot be a precedent necessitating this Court to direct, in every case, completion of disciplinary enquiry within three months failing which to direct that the employee be reinstated into service. The jurisdiction of this Court under Article 226 of the Constitution of India is discretionary and this Court would exercise its jurisdiction only in furtherance of larger public interest. In matters such as these, this Court would exercise its jurisdiction under Article 226 of the Constitution of India on the facts and circumstances of each case. In the case on hand, the charges relate to misappropriation of public

funds and it would not be in public interest to deny the petitioner herein further time to complete the enquiry. That does not, however, mean that an employee can be kept under suspension indefinitely. The competent authority is bound to take immediate steps to ensure that the departmental enquiry, into these grave and serious charges of misappropriation of public funds, is completed at the earliest, without having to repeatedly approaching the Tribunal or this Court for further extension of time to complete the enquiry.

Sri M.Prabhakara Rao, learned Standing Counsel, assures us that the disciplinary enquiry would be completed within a period of two months from the date of receipt of a copy of this order. Recording the said submission of the learned Standing Counsel, the time to complete the disciplinary enquiry is extended further till 28.02.2007.

Subject to the above, the Writ Petition is dismissed. However, in the circumstances, without costs.

(B.PRAKASH RAO, J)

(RAMESH RANGANATHAN, J)

1st December 2006
RRB

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